

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**Patent Application**

Applicant(s): C.-S. Li et al.  
Case: YOR920010407US1  
Serial No.: 09/896,584  
Filing Date: June 29, 2001  
Group: 3627  
Examiner: Asfand M. Sheikh

Title: Methods and Apparatus for Automatic Replenishment of Inventory  
Using Embedded Sensor System and Electronic Marketplace

---

RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

The remarks below are submitted in response to the Notification of Non-Compliant Appeal Brief, dated May 2, 2008 (hereinafter "Notification"), in the above-identified application. The Appeal Brief at issue was filed February 21, 2008.

REMARKS

For the reasons identified herein, Applicants (hereinafter “Appellants”) believe that the Notification is improper and should be withdrawn, and that the Appeal Brief, submitted on February 21, 2008, is in fact compliant with all relevant statutes and regulations.

In the Notification of Non-Compliant Appeal Brief, dated May 2, 2008, the Examiner first objects to the Appeal Brief as failing to contain a statement of all claims (e.g., rejected, allowed, withdrawn, objected to, canceled). More specifically, the Examiner stated on a telephonic interview, which took place on May 6, 2008 between Examiner Sheikh and Agent James M Lee (Reg. No. 61,588), that the status of the claims must be indicated in the Claims Appendix section of the Appeal Brief even though the Status of Claims section of the Appeal Brief contained the status of the claims.

The relevant section governing contents required in an Appeal Brief is 37 C.F.R. §41.37(c). Appellants note that 37 C.F.R. §41.37(c)(1)(iii) and 37 C.F.R. §41.37(c)(1)(viii) state:

(iii) Status of claims. A statement of the status of all the claims in the proceeding (e.g. rejected, allowed or confirmed, withdrawn, objected to, canceled) and an identification of those claims that are being appealed.

(viii) Claims appendix. An appendix containing a copy of the claims involved in the appeal.

Appellants respectfully contend that since the status of the claims is provided in the Status of Claims section of the Appeal Brief, it is not necessary to repeat the status of the claims in the Claims Appendix section. Further, 37 C.F.R. §41.47(c)(1)(viii) only requires “an appendix containing a copy of the claims involved in the appeal” and does not require stating the status of the claims. For at least these reasons, the submitted Appeal Brief is compliant with the governing rules and the Examiner’s objection should be withdrawn.

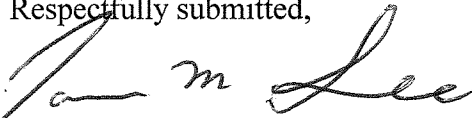
Notwithstanding this traversal, a Status of Claims section correcting a minor typographical error and a revised Claims Appendix section are submitted herewith.

The Examiner also objects to a statement in the Appeal Brief that states that the Appeal Brief is after a final rejection, when in fact the Appeal Brief is after a non-final rejection. Appellants respectfully concede that the Appeal Brief is after a non-final rejection and not a final rejection.

Appellants have corrected this typographical error and submit a corrected Status of Amendments section attached herewith.

Accordingly, Appellants believe that the Appeal Brief is proper and fully compliant with the rules and the Examiner's objections should be withdrawn.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "James M Lee". The signature is written in dark ink and is positioned above the printed name and contact information.

Date: June 2, 2008

James M Lee  
Agent for Appellant(s)  
Reg. No. 61,588  
Ryan, Mason & Lewis, LLP  
90 Forest Avenue  
Locust Valley, NY 11560  
(516) 759-4547

STATUS OF CLAIMS

The present application was filed on June 29, 2001 with claims 1-26.

Claims 5, 6, 11, 12, 14, 19, and 20 have been canceled without prejudice.

Claims 1-4, 7-10, 13, 15-18, and 21-26 are the pending claims.

Claims 1, 15, and 25 are the pending independent claims.

Claims 1-4, 7-9, 13, 15-18, 21-23, 25, and 26 stand rejected under 35 U.S.C. §103(a).

Claims 10 and 24 stand rejected under 35 U.S.C. §103(a).

Claims 1-4, 7-10, 13, 15-18, and 21-26 are appealed.

STATUS OF AMENDMENTS

There has been no amendment filed subsequent to the non-final rejection.

CLAIMS APPENDIX

1. (Previously presented) A computer-based method of automatically controlling an inventory of items, the method comprising the steps of:

at least one broker device automatically collecting information relating to a status associated with at least one inventory item from one or more sources;

the at least one broker device automatically accessing at least one electronic marketplace, wherein the electronic marketplace comprises an electronic trading network site, the broker device accessing the electronic marketplace in order to: (1) obtain information to determine one or more optimal parameters, based on the collected status information, to be used for replenishing the at least one inventory item via the at least one electronic marketplace; and (2) order a quantity of the inventory item via the electronic marketplace from a provider of the inventory item; and

the at least one broker device one of aggregating and deaggregating multiple orders for the inventory item associated with the one or more sources so as to minimize an overall purchasing cost attributable to the multiple orders.

2. (Original) The method of claim 1, wherein the electronic marketplace accessing step further comprises monitoring at least one of pricing and supply trends associated with the at least one electronic marketplace on the at least one inventory item.

3. (Original) The method of claim 1, wherein the one or more optimal parameters comprise an optimal time to acquire the at least one inventory item via the at least one electronic marketplace.

4. (Original) The method of claim 1, wherein the one or more optimal parameters comprise an optimal quantity of the at least one inventory item to acquire via the at least one electronic marketplace.

5. (Canceled).

6. (Canceled).

7. (Original) The method of claim 1, further comprising the step of automatically generating an alert to an individual that an order may need to be placed for the at least one item.

8. (Original) The method of claim 1, wherein the step of automatically collecting information further comprises collecting usage pattern information associated with the at least one item.

9. (Original) The method of claim 1, wherein the step of accessing the at least one electronic marketplace further comprises gathering information on a market condition associated with the at least one inventory item.

10. (Original) The method of claim 1, further comprising the step of automatically generating a recommendation of at least one of a different brand and a different type of an item to a consumer of the inventory.

11. (Canceled).

12. (Canceled).

13. (Previously presented) The method of claim 1, wherein the one or more sources comprise an embedded sensor system.

14. (Canceled).

15. (Previously presented) Apparatus for automatically controlling an inventory of items, the apparatus comprising:

at least one processor operative to: (i) receive automatically collected information relating to a status associated with at least one inventory item from one or more sources; and (ii) automatically access at least one electronic marketplace, wherein the electronic marketplace comprises an electronic trading network site, in order to obtain information to determine one or more optimal parameters, based on the collected status information, to be used for replenishing the at least one inventory item via the at least one electronic marketplace, and to order a quantity of the inventory item via the electronic marketplace from a provider of the inventory item; and (iii) one of aggregate and deaggregate multiple orders for the inventory item associated with the one or more sources so as to minimize an overall purchasing cost attributable to the multiple orders; and

memory, coupled to the at least one processor, for storing at least the collected status information.

16. (Original) The apparatus of claim 15, wherein the electronic marketplace accessing operation further comprises monitoring at least one of pricing and supply trends associated with the at least one electronic marketplace on the at least one inventory item.

17. (Original) The apparatus of claim 15, wherein the one or more optimal parameters comprise an optimal time to acquire the at least one inventory item via the at least one electronic marketplace.

18. (Original) The apparatus of claim 15, wherein the one or more optimal parameters comprise an optimal quantity of the at least one inventory item to acquire via the at least one electronic marketplace.

19. (Canceled).

20. (Canceled).

21. (Original) The apparatus of claim 15, wherein the at least one processor is further operative to automatically generate an alert to an individual that an order may need to be placed for the at least one item.

22. (Original) The apparatus of claim 15, wherein the at least one processor is further operative to automatically collect usage pattern information associated with the at least one item.

23. (Original) The apparatus of claim 15, wherein the at least one processor is further operative to gather information on a market condition associated with the at least one inventory item.

24. (Original) The apparatus of claim 15, wherein the at least one processor is further operative to automatically generate a recommendation of at least one of a different brand and a different type of an item to a consumer of the inventory.

25. (Previously presented) A system for automatically controlling an inventory of items, the system comprising:

at least one sensor operative to automatically obtain information relating to a status associated with at least one inventory item; and

at least one computer system, operatively coupled to the at least one sensor, operative to receive the status information and to automatically access at least one electronic marketplace in order to determine one or more optimal parameters, based on the collected status information, to be used for replenishing the at least one inventory item in accordance with at least one provider of the item via the at least one electronic marketplace, and to one of aggregate and deaggregate orders for the inventory item so that an overall purchasing cost is minimized.

26. (Original) The system of claim 25, further comprising at least another computer system, operatively coupled between the at least one sensor and the first computer system, operative to serve as a gateway.